

**SUMMARY OF THE CITY COUNCIL REGULAR MEETING HELD APRIL 6, 2009, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5<sup>TH</sup> STREET.**

**1 – Roll Call:** Present: Mayor Schuster, Councilmembers Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Absent: None.

Mayor Schuster read a proclamation proclaiming the week of April 12-18 as National Library Week. Laureen Riedesel was present to receive the proclamation and announced a list of activities being held at the library during the month-long celebration.

Mayor Schuster announced that a copy of the Open Meetings Act is posted in the meeting room and is accessible to members of the public.

**2 – Consent Agenda**

- a. Approve agenda as submitted.
- b. Receive and place on file all notices pertaining to this meeting.
- c. Receive and place on file all materials having any bearing on this meeting.
- d. Approval of minutes of March 16, 2009 as on file in the City Clerk's Office.
- e. Approval of minutes of special meeting of March 30, 2009, as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims in the amount of \$357,352.39.
- g. Approval of BASWA Report of Claims in the amount of \$11,587.97.
- h. Approval of contract with Goossen Construction, Inc. in the amount of \$186,500 for a steel building for the Parks Department Shop.
- i. Approval of change order #1 resulting in a decrease in the amount of \$8,954 to the contract with Goossen Construction, Inc. for a steel building for the Parks Department Shop.
- j. Refer claim of Alan Fetty for expenses incurred following a citation on 1/18/2009 to the City Attorney and the City's Insurance carrier.
- k. Refer Discrimination Claim of Daniel Meints to the City Attorney and the City's Insurance carrier.
- l. Approve ambulance write-off list to be sent to Collection Associates.
- m. Resolution Number 5104 entering into concessions license agreement with Beatrice Bullets organization for the concession stand at Northern Natural Gas Fields.
- n. Amend motion on 3/16/2009 approving special designated liquor permits of Risky's for the dates of 5/29/2009, 6/19/2009, and 5/16/2009 to change all start times to 10:00 a.m. and the end time on 5/16/2009 to 3:00 p.m.
- o. Resolution Number 5105 entering into lease agreement with Fraternal Order of Police Lodge 45A for use of a portion of the second floor of the Beatrice Police Station for the purpose of a health and fitness center.

Moved by Fairbanks, seconded by Carey, that the items listed under the consent agenda, with the exception of items h, i, j, k, m, n, and o, be approved, accepted and/or ratified as presented.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

h - Moved by Fairbanks, seconded by Fetty, to approve the contract with Goossen Construction, Inc. in the amount of \$186,500 for a steel building for the Parks Department Shop.

City Engineer, Rex Behrends, reviewed the bids received, the adds and deducts, and provided a comparison between wood or steel, recommending the steel building.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

i – Moved by Fairbanks, seconded by Fetty, to approve change order #1 resulting in a decrease in the amount of \$8,954 to the contract with Goossen Construction, Inc. for a steel building for the Parks Department Shop.

City Engineer Behrends explained the reasons for the change order bringing the total contract price down to \$177,546, and will remove the concrete approach which will be done in-house at an estimated \$6,000.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

j – Moved by Fairbanks, seconded by Fetty, to approve referring the claim of Alan Fetty for expenses incurred following a citation on 1/18/2009 to the City Attorney and the City's Insurance carrier.

Councilmember Fetty spoke to the council as a citizen, not as a councilmember, explaining why he was submitting the claim and requesting that they approve the claim as a public body. Discussion followed.

Moved by Catlin, seconded by Lytle, to amend the motion to pay the claim from the police department budget.

Roll Call: Yea: Catlin  
Nay: Carey, Fairbanks, Lytle, Moore, Parde, Schmale  
Abstain: Fetty

Motion failed.

Vote on original motion to refer claim:

Roll Call: Yea: Catlin, Lytle  
Nay: Carey, Fairbanks, Moore, Parde, Schmale  
Abstain: Fetty

Motion failed.

k – Moved by Fairbanks, seconded by Lytle, to approve referring Discrimination Claim of Daniel Meints to the City Attorney and the City's Insurance carrier.

Councilmember Carey requested an update on the case, which City Attorney Tobias Tempelmeyer provided.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

m – Moved by Fairbanks, seconded by Parde, that Resolution Number 5104 entering into concessions license agreement with Beatrice Bullets organization for the concession stand at Northern Natural Gas Fields be passed and adopted.

Councilmember Carey requested that the subcommittee review this agreement before next year so that the same issues do not happen again. Mayor Schuster reported that YRI had withdrawn their proposal to operate the concession stand.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

n – Moved by Fairbanks, seconded by Parde, to amend the motion on 3/16/2009 approving special designated liquor permits of Risky's for the dates of 5/29/2009, 6/19/2009, and 5/16/2009 to change all start times to 10:00 a.m. and the end time on 5/16/2009 to 3:00 p.m.

Councilmember Parde requested more information on moving the time forward. Terri Todd, representing Risky's, explained that they just wanted to be able to sell while setting up; they would not be opening the beer garden earlier.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale

Nay: None.

Motion carried.

o – Moved by Fairbanks, seconded by Carey, that Resolution Number 5105 entering into lease agreement with Fraternal Order of Police Lodge 45A for use of a portion of the second floor of the Beatrice Police Station for the purpose of a health and fitness center be passed and adopted.

Councilmember Fetty requested that approval be postponed until issues were resolved with the police department.

Roll Call: Yea: Carey, Lytle, Moore, Parde, Schmale  
Nay: Catlin, Fairbanks, Fetty.

Motion carried.

### **3 – Public Hearings/Bids: None.**

#### **a. Hearings:**

#### **(1) Application to Nebr. Dept of Economic Development for a Community Development Block Grant for a video analysis of the City's storm sewer system. Resolution submitted.**

Mayor Schuster announced that a public hearing be held regarding the application to the Nebraska Department of Economic Development for a Community Development Block Grant for a video analysis of the City's storm sewer system.

City Administrator, Neal Niedfeldt, explained the grant application, which provides CDBG funds of \$37,200 plus a 25% match of \$11,900 being paid from the Street budget. City Engineer Behrends provided a map showing the area to be videoed, which is about half of the system, and is in a 50% LMI area.

Moved by Fairbanks, seconded by Schmale, that the public hearing be closed at 8:18 p.m.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster introduced Resolution Number 5106 authorizing an application to the Nebraska Department of Economic Development for a Community Development Block Grant for a video analysis of the City's storm sewer system.

Moved by Fairbanks, seconded by Schmale, that Resolution Number 5106 be passed and adopted.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Resolution Number 5106 has been passed and adopted.

#### **(2) Application to Nebr. Dept of Economic Development for a Community Development Block Grant for replacement of a sanitary sewer trunk line. Resolution submitted.**

Mayor Schuster announced that a public hearing be held regarding the application to the Nebraska Department of Economic Development for a Community Development Block Grant for replacement of a sanitary sewer trunk line.

City Administrator Niedfeldt explained the grant application, which provides CDBG funds of \$75,200 plus a 25% match of \$23,800 being paid from the WPC budget. City Engineer Behrends reported that the old main has holes in it and needs to be replaced this fall. The area served includes the YMCA, High School, and State Developmental Center. Don Vetrovsky, Board of Public Works Chairman, appeared requesting support of the project.

Moved by Fairbanks, seconded by Schmale, that the public hearing be closed at 8:26 p.m.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster introduced Resolution Number 5107 authorizing an application to the Nebraska Department of Economic Development for a Community Development Block Grant for replacement of a sanitary sewer trunk line.

Moved by Fairbanks, seconded by Schmale, that Resolution Number 5107 be passed and adopted.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Resolution Number 5107 has been passed and adopted.

#### **4 – Resolutions:**

##### **a. Executing agreement with Nebr. Dept. of Roads for mill and overlay of Collector Streets.**

Mayor Schuster introduced Resolution Number 5108 executing an agreement with the Nebraska Department of Roads for mill and overlay of Collector Street.

Moved by Fairbanks, seconded by Fetty, that Resolution Number 5108 be passed and adopted.

City Engineer Behrends explained that the mill and overlay of the proposed streets was originally budgeted in the Street fund, but had been help up for stimulus money that was not awarded, so it is now time to move forward with the project.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Resolution Number 5108 has been passed and adopted.

##### **b. Executing agreement with Nebr. Dept. of Roads for Homestead Trail-Cortland to Pickrell connection.**

Mayor Schuster introduced Resolution Number 5109 executing an agreement with the Nebraska Department of Roads for the Homestead Trail-Cortland to Pickrell connection.

Moved by Fairbanks, seconded by Schmale, that Resolution Number 5109 be passed and adopted.

City Engineer Behrends explained that funding was now available for completion of the Homestead Trail due to Economic Stimulus funding. The grant will provide 80% funding of \$492,664, with the City's 20% match coming from the right-of-way and in-house engineering.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Resolution Number 5109 has been passed and adopted.

#### **5 – Ordinances:**

##### **a. Approving the issuance of Combined Utilities Revenue Bonds, Series 2009, in the amount of \$2,265,000**

Mayor Schuster introduced an ordinance approving the issuance of Combined Utilities Revenue Bonds, Series 2009, in the amount of \$2,265,000.

Moved by Fairbanks, seconded by Schmale, that said ordinance be given Number 09-016, the title thereof be approved and the rules be suspended and said ordinance be read by number only three times tonight.

Marc Munford, Ameritas Investment Corp, went over the details of the \$2,265,000 issue with rates from 1.7% to 4.5% over 15 years, some of which were sold to local investors. City Administrator Niedfeldt explained that funding of capital projects with bonds was as proposed in the FY09 budget and that rates were now favorable. BPW Chairman Vetrovsky spoke in favor of the issue and thanked everyone for their support of the BPW.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-016 by number only the first, second and third time.

Moved by Fairbanks, seconded by Fetty, that Ordinance Number 09-016 be passed and approved.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster announced that Ordinance Number 09-016 has been passed and approved.

**b. Ordinance Number 09-015, read by number two times, amending Ordinance 09-003 regarding electric rates.**

Mayor Schuster announced to consider Ordinance Number 09-015 amending Ordinance 09-003 regarding electric utility rates adding Sections regarding Qualifying Facilities for the third and final reading.

Moved by Fairbanks, seconded by Moore, that Ordinance Number 09-015, the title thereof be approved and the rules be suspended and said ordinance be read by number only the third and final time tonight.

City Administrator Niedfeldt reported that no changes had been made and no questions been received since the last reading.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-015 by number only the third time.

Moved by Fairbanks, seconded by Schmale, that Ordinance Number 09-015 be passed and approved.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster announced that Ordinance Number 09-015 has been passed and approved.

**c. Ordinance Number 09-008, read once by title, annexing property known as Wildwood Estates located at South 19<sup>th</sup> and Oak Streets.**

Mayor Schuster announced further consideration of Ordinance Number 09-008 annexing a tract of land in the NE1/4 Section 10, Township 3 North, Range 6 East of the 6<sup>th</sup> P.M., known as Wildwood Estates located at South 19<sup>th</sup> & Oak Streets, which has been read by title once.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 09-008, the title thereof be approved and said ordinance be read by title only the second time tonight.

No one appeared.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance 09-008 by title the second time.

**d. Ordinance Number 09-009, read once by title, annexing property known as Kuhl's Addition located at Highway 136 and 33<sup>rd</sup> Street.**

Mayor Schuster announced further consideration of Ordinance Number 09-009 annexing a tract of land in the NW1/4 Section 1, Township 3 North, Range 6 East of the 6<sup>th</sup> P.M., known as Kuhl's Addition located at Highway 136 and 33<sup>rd</sup> Street, which has been read by title once.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 09-009, the title thereof be approved and said ordinance be read by title only the second time tonight.

No one appeared.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance 09-009 by title the second time.

**e. Ordinance Number 09-010, read once by title, annexing property known as Tyser Addition located at along Beaver Ave, north of CC Estates**

Mayor Schuster announced further consideration of Ordinance Number 09-010 annexing a tract of land in the SE1/4 Section 3, Township 3 North, Range 6 East of the 6<sup>th</sup> P.M, known as Tyser Addition, located along Beaver Ave., north of Country Club Estates, which has been read by title once.

Moved by Fairbanks, seconded by Fetty, that Ordinance Number 09-010, the title thereof be approved and said ordinance be read by title only the second time tonight.

No one appeared.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-010 by title the second time.

**f. Ordinance Number 09-011, read once by title, annexing property known as Sunridge Development 2<sup>nd</sup> Addition located at 26<sup>th</sup> and Hoyt Streets.**

Mayor Schuster announced further consideration of Ordinance Number 09-011 annexing a tract of land in the NE1/4 and NW1/4 Section 35, Township 4 North, Range 6 East of the 6<sup>th</sup> P.M., known as Sunridge Development 2<sup>nd</sup> Addition, located at 26<sup>th</sup> & Hoyt Streets, which has been read by title once.

Moved by Fairbanks, seconded by Catlin, that Ordinance Number 09-011, the title thereof be approved and said ordinance be read by title only the second time tonight.

No one appeared.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-011 by title the second time.

**g. Ordinance Number 09-012, read once by title, annexing property known as Covered Bridge Heights located at 25<sup>th</sup> and Scott Streets.**

Mayor Schuster announced further consideration of Ordinance Number 09-012 annexing a tract of land in the NE1/4 and NW1/4 Section 2, Township 3 North, Range 6 East of the 6<sup>th</sup> P.M., known as Covered Bridge Heights Addition, located at 25<sup>th</sup> & Scott Streets, which has been read by title once.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 09-012, the title thereof be approved and said ordinance be read by title only the second time tonight.

No one appeared.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-012 by title the second time.

**h. Amending Section 17-111 of the Beatrice City Code regarding concealed weapons.**

Mayor Schuster introduced an ordinance amending Section 17-111 of the Beatrice City Code regarding concealed weapons.

Moved by Fairbanks, seconded by Lytle, that said ordinance be given Number 09-017, the title thereof be approved and the rules be suspended and said ordinance be read by number only one time tonight.

This ordinance was referred by Subcommittee A as a result of recent action by the Attorney General. City Attorney Tempelmeyer explained that the amendment provides that the holder of a valid handgun permit, hand gun as defined in State Statutes, would be exempt from the City's ordinance against carrying concealed weapons.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-017 by number only one time.

**i. Closing a portion of Scott Street between First Street and Second Street**

Mayor Schuster introduced an ordinance closing a portion of Scott Street between First Street and Second Street.

Moved by Fairbanks, seconded by Fetty, that said ordinance be given Number 09-018, the title thereof be approved and the rules be suspended and said ordinance be read by number only three times tonight.

City Administrator Niedfeldt explained that once the street was formally closed the City would be able to receive funds for closing the railroad crossing.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-018 by number only the first, second and third time.

Moved by Fairbanks, seconded by Moore, that Ordinance Number 09-018 be passed and approved.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None.

Motion carried.

Mayor Schuster announced that Ordinance Number 09-018 has been passed and approved.

**6– Public Forum:**

No one appeared.

**7- Discussions/Reports:**

- a. Discussion regarding Economic Stimulus package possible funding for the hiring or retention of police officers.**

Police Chief, Bruce Lang, reported that the police department was applying for assistance through the Department of Justice COPS program. We have been pre-approved for \$48,000 in funding with the County to be infused into the SEADE program. The Victim Assistance program is applying for funds to make up the shortfall in that program. And application will be made for funding for the retention of two officers for three years to prevent future layoffs.

- b. Discussion regarding Blue Valley Automation request for CDBG Funding.**

Blue Valley Automation's request for CDBG funding was not ready, this item will return on the next council meeting.

**8- Miscellaneous:**

- a. Next regular council meeting is April 20, 2009, at 7:00 p.m.
- b. Subcommittee meetings are April 27, 2009 at 6:00 and 7:30 at the Beatrice Library Sargent Room

Mayor Schuster reminded everyone of the Mayor's Prayer Breakfast tomorrow morning, Tuesday, April 7<sup>th</sup>.

Moved by Fairbanks, seconded by Schmale, that the meeting be adjourned at 9:17 p.m.

Roll Call: Yea: Carey, Fairbanks, Fetty, Schmale, Mayor Schuster  
Nay: Catlin, Lytle, Parde, Moore

Motion carried.

**Linda S. Koch, City Clerk**

**Mayor Dennis Schuster**